

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of) CUID No. MI0122 (Midland)
)
Bresnan Communications Company)
)
Refund Plan)

ORDER

Adopted: February 13, 2002

Released: February 15, 2002

By the Acting Chief, Financial Analysis and Compliance Division, Cable Services Bureau:

1. In this Order we consider the amended refund plan filed on February 17, 2000 by the above-referenced operator ("Operator") in the above-referenced community pursuant to our Order, DA 98-1877¹ ("Refund Order").² Our review of Operator's refund plan³ reveals that the refund plan does not fulfill the requirements of the Refund Order. We were unable to determine the methodology used by Operator to calculate its refund liability so we calculated it as follows: For the period from July 15, 1994 through September 30, 1994, we calculated an overcharge of \$0.12 per month per subscriber; for the period from November 8, 1994 through December 31, 1994, we calculated an overcharge of \$0.08 per month per subscriber and for the period from April 1, 1998 through March 31, 1999, we calculated an overcharge of \$0.76 per month per subscriber. Our total calculation, including five percent franchise fees plus interest on the overcharges and franchise fees through March 31, 2002, equals \$170,289.04. We will order Operator to refund this amount, plus any additional interest accrued to the date of refund, to its CPST subscribers within 60 days of the release of this Order.

2. Accordingly, IT IS ORDERED, that Operator's refund plan IS NOT APPROVED.

3. IT IS FURTHER ORDERED, pursuant to Section 76.962 of the Commission's rules, 47 C.F.R. § 76.962, that Operator shall refund to subscribers in the franchise area referenced above the total amount of \$170,289.04, plus interest accruing from March 31, 2002 to the date of refund, within 60 days of the release of this Order.

¹ See In the Matter of Bresnan Communications Company, DA 98-1877, 13 FCC Rcd 19615 (1998).

² The Refund Order required Operator to determine the overcharges to cable programming service tier ("CPST") subscribers for the period stated in the Refund Order and file a report with the Chief, Cable Services Bureau, stating the cumulative refund amount determined (including franchise fees and interest), describing the calculation thereof, and describing its plan to implement the refund within 60 days of Commission approval of the plan.

³ Operator calculated a total refund liability of \$98,279.00.

4. IT IS FURTHER ORDERED, pursuant to Section 76.962 of the Commission's rules, 47 C.F.R. § 76.962, that Operator file a certificate of compliance with the Chief, Cable Services Bureau, within 90 days of the release of this Order certifying its compliance with this Order.

5. This action is taken pursuant to Section 0.321 of the Commission's rules, 47 C.F.R. § 0.321.

FEDERAL COMMUNICATIONS COMMISSION

Kathleen F. Costello, Acting Chief
Financial Analysis and Compliance Division
Cable Services Bureau